

**SUPPORTING STATEMENT
FOR INFORMATION COLLECTION SUBMISSION
9000-0094, DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY
MATTERS**

A. Justification.

1. Administrative requirements.

This is a request for extension of the information collection requirement currently approved under OMB Control Number 9000-0094 for Debarment, Suspension, and Other Responsibility Matters (Federal Acquisition Regulation (FAR)) 52.209-5, 52.212-3(h) and 52.209-6).

This expanded clearance now also incorporates the requirements previously cleared under—

- OMB Control Number 9000-0174, Information Regarding Responsibility Matters (FAR 52.209-7 and 52.209-9; and
- 9000-0190, Prohibition on Contracting with inverted Domestic Corporations—Representation and Notification.

These information collections are merged for efficiency. The separate information collections collected like data.

a.i. Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters (52.209-5 and 52.212-3(h)).

- Purchases shall be made from, and contracts shall be awarded to, responsible prospective contractors only (9.103, Policy).
- To be determined responsible, a prospective contractor must meet a series of general standards. The standards include having a satisfactory record of integrity and business ethics, and being otherwise qualified and eligible to receive an award under applicable laws and regulations (9.104-1, General standards).
- **52.209-5, Certification Regarding Responsibility Matters**, is prescribed at 9.409, for use in solicitations where the contract value is expected to exceed the simplified acquisition threshold. This requirement is also at **paragraph (h) of the provision 52.212-3, Offeror Representations and Certifications-Commercial Items**, prescribed at 12.301(b)(2) for use in solicitations where the contract value is expected to exceed the simplified acquisition threshold for acquisition of commercial items. These certifications require the disclosure of the

following critical factors (in ORCA module of SAM), to be considered by the contracting officer in making a responsibility determination:

- Whether the offeror or any of its principals have been—
 - o Debarred, suspended, proposed for debarment, declared ineligible for contract award;
 - o Within a three-year period preceding their offer:
 - Convicted of or had a civil judgment rendered against them or indicted for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract, violation of Federal or State antitrust statutes relating to the submission of offers, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;
 - Notified of any delinquent Federal taxes in an amount that exceeds \$3,500 for which the liability remains unsatisfied;
 - Had one or more contracts terminated for default by any Federal agency; or
 - Are presently indicted for, or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses identified above.
 - Have, within a three-year period preceding the offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500, for which the liability remains unsatisfied.
- Whether the offeror, within a three-year period preceding the offer has one or more contracts terminated for default by any federal agency.
- If the offeror has responded affirmatively, the offeror shall provide additional information if requested by the contracting officer.
- The offeror shall also provide immediate written notice to the contracting officer if, at any time prior to contract

award, the offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

a.ii. Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (52.209-6).

- Other than a subcontract for a commercially available off-the-shelf item, contractors are prohibited from entering into a subcontract in excess of \$35,000 with a subcontractor that has been debarred, suspended, or proposed for debarment, unless there is a compelling reason to do so (9.405-2(b)).
- The clause at **52.209-6, Protecting the Government's Interest When Subcontracting with Contractor's Debarred, Suspended, or Proposed for Debarment**, is prescribed at 9.409, for use in solicitations and contracts where the contract value exceeds \$35,000.
- Paragraph (b) of the clause establishes the prohibition against contractors entering into any subcontract in excess of \$35,000 with a subcontractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so. (There is an exception for subcontracts for commercially available off-the-shelf items.)
- Paragraph (c) of the clause requires the contractor to require each proposed subcontractor whose subcontract will exceed \$35,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the contractor in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Government.
- Paragraph (d) of clause requires that before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment, a corporate officer or designee of the contractor must notify the contracting officer, in writing, of the name of the subcontractor; why the subcontractor is debarred, suspended, or ineligible; the compelling reason(s) for doing business with the subcontractor; and how the contractor will protect the Government's interests when dealing with such subcontractor.
- For contracts for the acquisition of commercial items, the

notification requirement applies only for first-tier subcontracts. For all other contracts, the notification requirement applies to subcontracts at any tier (9.405-2(b)).

- For any subcontract subject to Government consent, contracting officers shall not consent to such subcontracts, unless the agency head or a designee states in writing the compelling reasons for approving such subcontract (9.405-2(a)).

b.i. Information Regarding Responsibility Matters (52.209-7).

This information collection is necessary to: (a) determine the responsibility of prospective contractors; and (b) ensure that contractors maintain for accuracy and completeness, their integrity and performance information upon which responsibility determinations rely.

Purchases shall be made from, and contracts shall be awarded to, responsible prospective contractors only (9.103, Policy).

To be determined responsible, a prospective contractor must meet a series of general standards. The standards include having a satisfactory record of integrity and business ethics, and being otherwise qualified and eligible to receive an award under applicable laws and regulations (9.104-1, General standards).

Section 872 of the Duncan Hunter National Defense Authorization Act of 2009 (Public Law 110-417), enacted on October 14, 2008, required the development and maintenance of an information system that contains specific information on the integrity and performance of covered Federal agency contractors and grantees. The Federal Awardee Performance and Integrity Information System (FAPIIS) was developed to address these requirements. FAPIIS provides users access to integrity and performance information from the FAPIIS reporting module in the Contractor Performance Assessment Reporting System (CPARS), as well as proceedings information and suspension/ debarment information from the Central Contractor Registration (CCR) and the Excluded Parties List System (EPLS) functions in the System for Award Management (SAM).

Before awarding a contract in excess of the simplified acquisition threshold, a contracting officer is required to review FAPIIS, and consider all the information in FAPIIS and other past performance information when making a responsibility

determination (9.104(a) and (b)).

If the contracting officer obtains relevant information from FAPIIS regarding criminal, civil, or administrative proceedings in connection with the award or performance of a Government contract; terminations for default or cause; determinations of non-responsibility because the contractor does not have a satisfactory performance record or a satisfactory record of integrity and business ethics; or comparable information relating to a grant, the contracting officer must, unless the contractor has already been debarred or suspended:

- Promptly request such additional information from the offeror in order to demonstrate the offeror's responsibility; and
- Notify prior to proceeding with award, in accordance with agency procedures, the agency official responsible for initiating debarment or suspension action, if the information appears appropriate for the official's consideration.

Contracting officers are required to document the contract file for each contract in excess of the simplified acquisition threshold to indicate how the information in FAPIIS was considered in any responsibility determination, as well as the action that was taken as a result of the information.

The prescription at FAR 9.104-7(b) requires contracting officers to insert the provision at 52.209-7, Information Regarding Responsibility Matters, in solicitations where the resultant contract value is expected to exceed \$550,000.

Paragraph (b) of the provision contains a check box to be completed by the offeror indicating whether or not it has current active Federal contracts and grants with total value greater than \$10,000,000.

Paragraph (c) of the provision states that, if the offeror indicated in paragraph (b) that it has current active Federal contracts and grants with total value greater than \$10,000,000, then, by submission of the offer, the offeror represents that the information entered into FAPIIS is current, accurate, and complete as of the date of submission of the offer with regard to-

- Whether the offeror and/or any of its principals has, or has not, within the past five years, in connection with

the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level, that resulted in:

- (A) A criminal conviction in the case of a criminal proceeding;
 - (B) The finding of fault and liability in a civil proceeding resulting in the payment of \$5,000 or more in damages, restitution, reimbursement, fine or penalty;
 - (C) The finding of fault and liability in an administrative proceeding resulting in the payment of a monetary fine or penalty of \$5,000 or more, or the payment of a reimbursement, restitution, or damages in excess of \$100,000; or
 - (D) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgement of fault by the contractor if the proceeding could have led to any of the outcomes specified in (A) through (C) above.
- If the offeror has been involved in the last five years in any of the occurrences listed in the provision (see (A) through (D) above), whether the offeror has provided the requested information with regard to each occurrence.

Paragraph (d) of the provision requires the offeror to post the information identified in the provision (see (A) through (D) above) in FAPIIS as required by maintaining an active registration in the CCR function in SAM.

b.ii. Updates of Publicly Available Information Regarding Responsibility Matters (52.209-9)

The prescription at FAR 9.104-7(c) requires contracting officers to insert the clause at 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters, in -

- (A) Solicitations where the resultant contract value is expected to exceed \$550,000; and
- (B) Contracts in which the offeror checked in paragraph (b) of the provision at 52.209-7 that it has current active Federal contracts and grants with total value greater than \$10,000,000.

Paragraph (a) of the clause at 52.209-9 requires the contractor to update responsibility information on a semiannual basis, throughout the life of the contract, by posting the information in the CCR function in SAM.

Paragraph (b) of the clause provides notification regarding

the availability of certain FAPIIS information to the public.

c.i. Prohibition on Contracting with Inverted Domestic Corporations—Representation (FAR 52.209-2 and 52.212-3(n)).

This provision is prescribed at 9.108-5(a) for use in each solicitation for the acquisition of products and services (including construction).

Paragraph (d)(2) of FAR 52/209-2 requires each offeror to represent whether it is, or is not, an inverted domestic corporation or a subsidiary of an inverted domestic corporation.

c.ii. Prohibition on Contracting with Inverted Domestic Corporations (52.209-10).

This clause is prescribed for use at FAR 9.108-5(b) for use in each solicitation and contract for the acquisition of products and services (including construction)

Paragraph (c) requires the contractor to promptly notify the contracting officer in the event the contractor becomes an inverted domestic corporation or a subsidiary of an inverted domestic corporation.

2. Use of information.

a.i. 52.209-5, and 52.212-3(h). The certifications in 52.209-5, and 52.212-3(h) are used by the contracting officer in evaluating a firm's responsibility for contract award.

a.ii. 52.209-6. The information provided by the subcontractors under 52.209-6(c) is used by prime contractors to evaluate the responsibility of the subcontractors. The information provided by the prime contractor under 52.209-6(d) when proposing to contract with a subcontractor that is debarred, suspended, or proposed for debarment, among other things, describes how the Government's interests will be protected by the contractor when dealing with such subcontractor.

b.i. 52.209-7. The information provided by offerors in accordance with the provision at 52.209-7 are used by the contracting officer to support his/her evaluation of a firm's responsibility in compliance with the policy at FAR 9.103 that purchases are made from, and contracts awarded to, responsible prospective contractors only.

b.ii. 52.209-9. The information provided by contractors

in accordance with the clause at 52.209-9 are used by the contracting officer to support his/her evaluation of a firm's responsibility in compliance with the policy at FAR 9.103 that purchases are made from, and contracts awarded to, responsible prospective contractors only.

c.i. 52.209-2 and 52.212-3(n). Federal agencies will use this information to comply with the prohibition against contracting with inverted domestic corporations.

c.ii. 52.209-10. Federal agencies will use this information to comply with the prohibition against providing funds to inverted domestic corporations.

3. Consideration of information technology. We use improved information technology to the maximum extent practicable. Where both the Government agency and contractors are capable of electronic interchange, the contractors are encouraged to submit this information collection requirement electronically.

4. Efforts to identify duplication. This information collection does not duplicate any other requirement.

5. If the collection of information impacts small businesses or other entities, describe methods used to minimize burden. The burden applied to small businesses is the minimum consistent with applicable laws, Executive orders, regulations, and prudent business practices.

6. Describe consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently. Collection of information on a less frequent basis is not practical.

7. Special circumstances for collection. Collection is consistent with guidelines in 5 CFR 1320.6.

8. Efforts to consult with persons outside the agency. A 60-day notice was published in the *Federal Register* at 81 FR 8719, on February 22, 2016. One response was received. The analysis of the public comment is summarized as follows:

The commenter supports the efforts to contract with only responsible parties and to assure contracting officers engage in appropriate due diligence to support this effort.

Comment: According to the respondent, the Federal Government has drastically underestimated the burden associated with

compiling and reporting the requisite information by failing to take into account the offeror's obligation to assure that the information provided is current, accurate, and complete. It also fails to account for the requirement to update the information no less than semi-annually.

Response: FAR 52.209-7 requires the contractor to enter information into FAPIIS and FAR 52.209-9 requires the contractor to update this information semi-annually. The initial burden estimate for FAR 52.209-9 does take into account entering the information semi-annually. However, based on the comment, an adjustment was made from .5 hours to 1 hour per response, for FAR 52.209-9. The change doubles the initial burden estimate for that clause to allow more time for this action.

Comment: The commenter stated that the Government may have understated the recordkeeping burden by several orders of magnitude. The number of recordkeepers does not equal the number of respondents and is unclear as to why. One cannot reasonably expect an offeror to provide the required information and certify it as current, accurate, and complete without maintaining the requisite litigation, employment, and corporate records.

Response: In this situation, the estimate for recordkeeping is based on the number of offerors submitting data into FAPIIS, whether or not they receive an award. This provision requires that for each solicitation where the resultant contract value is expected to exceed \$550,000, the offeror responds in paragraph (b) as to whether or not it has active Federal contracts that total more than \$10,000,000. Only if the offeror responds affirmatively is there any further information collection requirement. The recordkeepers maintain the company's information internally. This explains the difference between the number of respondents and the number of recordkeepers.

Comment: According to the commenter, the requirement to provide "Information Regarding Responsibility Matters" under 52.209-7 violates Executive Order 13610, Identifying and Reducing Regulatory Burdens, in that it is a redundant collection of information and fails to maximize the re-use of data that are already collected. The commenter states that FAR clauses 52.209-5 and 52.209-7 request for information overlaps and yet is different enough to create substantial additional burden and confusion for offerors evaluating instance of litigation under both standards.

Response: FAR 52.209-7 is a statutory clause that requires the

Government to collect information that is loaded into FAPIIS. The clause must be implemented as intended. Some of the information being collected may seem redundant but it has different criteria. It is not identical information and used differently. Furthermore, the thresholds are different. FAR 52.209-5 implements policy guidance on debarment, suspension and ineligibility. FAR 52.209-5 is a certification that is placed in all solicitations when the contract value is expected to exceed the simplified acquisition threshold and covers 3 years. FAR 52.209-7 goes in solicitations expected to exceed \$550,000 and covers 5 years and requires that the information be placed into FAPIIS (as required by statute).

Comment: The existence of FAR 52.209-5 and 52.209-11 obviate the need for FAR 52.209-7 because all three clauses use offeror's litigation history as an indicator of its present responsibility.

Response: These data requirements are different. One major difference between these clauses is that FAR 52.209-7 collects data to be added into FAPIIS. The others do not. Therefore, FAR 52.209-7 has a different requirement intent and needed.

Comment: FAR 52.209-7 requires offerors to report information on matters so old they are no longer relevant to present responsibility.

Response: The statute that this clause is based requires that it collect 5 years of data.

A 30-day notice was published in the *Federal Register* at 81 FR 71733 on October 18, 2016.

9. Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees. There will be no payment or gift to respondents, other than remuneration of contractors.

10. Describe assurance of confidentiality provided to respondents. This information is disclosed only to the extent consistent with law, regulation, and prudent business practices.

11. Additional justification for questions of a sensitive nature. There are no questions of a sensitive nature regarding matters commonly considered private.

12 & 13. Estimated total annual public hour and cost burden. This is a request for extension of the information collection

requirement currently approved under OMB Control Number 9000-0094 for Debarment, Suspension, and Other Responsibility Matters covering FAR Subpart 9.1, Subpart 9.4, 52.209-5, 52.212-3(h), and 52.209-6. This clearance also incorporates the information collection requirements currently approved under OMB Control Number 9000-0174, Information Regarding Responsibility Matters (FAR 52.209-7 and 52.209-9; and 9000-0190, Prohibition on Contracting with Inverted Domestic Corporations—Representation and Notification.

Total Burden

i. Reporting Burden

Number of respondents:	905,882	
Responses per respondent:	<u>x 1.364</u>	—
Total annual responses:	1,239,602	
Preparation time per response:	<u>x .335339</u>	
Total response burden hours:	415,687	
Average wages + overhead:	<u>x \$47.61</u>	
Total cost to the public:	\$ 19,793,938	

ii. Recordkeeping Burden

Number of recordkeepers:	5,080
Estimated preparation time per response (hours):	<u>x 100</u>
Total recordkeeping burden hours:	508,000
Average wage (\$30.81 + 36%):	<u>x 46*</u>
Total:	\$23,368,000

iii. Total reporting and recordkeeping burden

Total burden hours:	923,687
Average wages + overhead:	<u>\$46.73</u>
Total cost:	\$43,161,938

a.i. FAR 52.209-5 and 52.212-3(h) apply to a wide universe, e.g., 52.209-5 applies to solicitations above the simplified acquisition threshold. However, because ORCA allows for multiple uses from one entry, i.e., a contractor can enter their representations and certification information once a year (with any needed updates) for use on all Federal contracts, the number of responses per respondent is estimated at 1.1 responses per respondent, based on an estimate that on the average, 10 percent of entities will require an update in the ORCA function of SAM within the year. The estimated annual number of respondents is 391,000, based on the number of vendors registered in the ORCA function of SAM as of December 31, 2015 (391,021, rounded to the nearest thousand). Data entry by contractors is estimated at 30 minutes per response.

DoD, GSA, and NASA estimate that one percent of respondents (3,910) will be required to submit additional information at the request of the contracting officer or notify the contracting officer of a change in the certification prior to contract award, with an estimate of 8 hours per response.

**Annual Reporting Burden
(52.209-5 and 52.212-3(h))**

Annual Reporting Burden	52.209-5(a)	52.209-5(c)	Total_
Number of respondents	391,000	3,910	394,910
Number of responses per respondent per year	<u>x 1.1</u>	<u>x 1</u>	<u>x 1.1</u>
Total annual responses	430,100	3,910	434,010
Preparation time per response	<u>x .5</u>	<u>x 8</u>	<u>x .57</u>
Total response burden hours	215,050	31,280	246,330
Average wages + overhead	<u>x \$46*</u>	<u>\$67**</u>	<u>x48.67***</u>
Total cost to the public	\$9,892,300	\$2,095,760	\$11,988,060

* DoD, GSA, and NASA used a rate equivalent to a GS-12, Step 5 or \$33.72/hour (from the OPM 2016 GS Salary Table), added overhead at 36.45 percent (the OMB-mandated burden rate for A-76 public-private competitions), and rounded it to the nearest whole dollar, or \$46/hour. The estimated cost per response is \$27.59.

** DoD, GSA, and NASA used a rate equivalent to a GS-15, Step 5 or \$55.74/hour (from the OPM 2016 GS Salary Table), added overhead at 36.45 percent (the OMB-mandated burden rate for A-76 public-private competitions), and rounded it to the nearest whole dollar, or \$67/hour.

***Weighted average.

a.ii. FAR 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.

According to FPDS data for FY 2015, there were 20,932 contracts exceeding \$35,000 awarded in FY 2015 to 41,681 vendors (about 2.9 contracts per unique vendor).

52.209-6(c) - Prime contractors must require each proposed subcontractor whose subcontract will exceed \$35,000, other than a subcontractor providing a COTS item, to disclose whether the subcontractor or its principals are debarred, suspended, or proposed for debarment by the Federal Government. This requirement flows down to all tiers if the prime contract

is for the acquisition of noncommercial items. If the prime contract is for the acquisition of commercial items., the requirement does not flow down.

DoD, GSA, and NASA estimate 285,000 responses by subcontractors, to be provided by 95,000 respondents (285,000/3). This response is estimated to average .5 hours per response.

52.209-6(d) - The Contractor must notify the contracting officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a COTS item) that is debarred, suspended, or proposed for debarment. DoD, GSA, and NASA estimate that the number of prime contractors planning to enter into such a subcontract should be few, less than 1 respondent in a thousand (90). To justify such an action is estimated to require an average of 8 hours per response.

**Annual Reporting Burden
(52.209-6)**

	52.209-6(c)	52.209-6(d)	Total
Number of respondents	95,000	90	95,090
Number of responses per respondent per year	<u>x 3</u>	<u>x 1</u>	x <u>3.0</u>

Total annual responses	285,000	90	285,090
Preparation time per response	<u>x .5</u>	<u>x 8</u>	<u>x .57</u>
Total response burden hours	142,500	720	143,220
Average wages + overhead	<u>x \$46*</u>	<u>\$67**</u>	<u>x\$46.10***</u>
Total cost to the public	\$ 6,555,000	\$48,240	\$6,603,240

* DoD, GSA, and NASA used a rate equivalent to a GS-12, Step 5 or \$33.72/hour (from the OPM 2016 GS Salary Table), added overhead at 36.45 percent (the OMB-mandated burden rate for A-76 public-private competitions), and rounded it to the nearest whole dollar, or \$46/hour.

** DoD, GSA, and NASA used a rate equivalent to a GS-15, Step 5 or \$55.74/hour (from the OPM 2016 GS Salary Table), added overhead at 36.45 percent (the OMB-mandated burden rate for A-76 public-private competitions), and rounded it to the nearest whole dollar, or \$67/hour.

***Weighted average.

b.i. FAR 52.209-7 Information Regarding Responsibility Matters.

The provision at FAR 52.209-7 requires that for each solicitation where the resultant contract value is expected to exceed \$550,000, the offeror responds in paragraph (b) as to whether or not it has active Federal contracts and grants that total greater than \$10,000,000. Only if the offeror responds affirmatively is there any further information collection requirement.

Because a firm can quickly retrieve the total dollar amount of its current Federal contracts and grants, the estimated number of hours for response to the check block in paragraph (b) of the provision at 52.209-7 is 0.1 hours. The following analysis is provided in accordance with Fiscal Year (FY) 2015 Federal Procurement Data System (FPDS) data:

- According to FPDS data, there were 25,411 contracts subject to the FAPIIS requirements of 52.209-6 and 52.209-7 that were awarded in FY 2015 to 13,693 unique vendors.
- The Government estimates that there was an average of 3 responses per solicitation, resulting in approximately 76,200 offers (25,416 x 3, rounded to the nearest hundred).
- Of the approximate 76,200 offers, the Government estimates that an average of five responses annually will be received from 15,240 unique vendors (76,200/5).
- The Government estimates that approximately 15,240 respondents to solicitations (1,540 of which will not receive an award), would need to comply with the applicable provision for this information collection.

- Based on the analysis, it has determined that the 15,240 unique vendors will be used as the basis for the number of initial respondents for this information collection.
- The Government further estimates that one third of the unique vendors (5,080) submitting offers may answer the first question affirmatively, and will then need to enter data into the FAPIIS, with an estimated average of one hour per response.

**Annual Reporting Burden
FAR 52.209-7**

(i) Initial Response:

Estimated number of respondents:	15,240
Est. number of responses per respondent per year:	<u>x 5</u>
Total annual responses (rounded):	76,200
Estimated hours per response:	<u>0.1</u>
Total response burden hours:	7,620

(ii) Additional Response:

Estimated number of respondents:	5,080
Est. number of responses per respondent per year:	<u>x 1</u>
Estimated number of responses:	5,080
Estimated hours per response:	<u>x 1</u>
Estimated response burden hours:	5,080

Total response burden hours for FAR 52.209-7:	12,700
Average wage + overhead:	<u>x \$ 46*</u>
Estimated cost to public:	\$584,200

* DoD, GSA, and NASA used a rate equivalent to a GS-12, Step 5 or \$33.72/hour (from the OPM 2016 GS Salary Table), added overhead at 36.45 percent (the OMB-mandated burden rate for A-76 public-private competitions), and rounded it to the nearest whole dollar, or \$46/hour.

b.ii. FAR 52.209-9 Updates of Publicly Available Information Regarding Responsibility Matters.

The clause at FAR 52.209-9 applies to that same solicitations that include the provision at FAR 52.209-7, and contracts to contracts in which the offeror has indicated in paragraph (b) of the provision at 52.209-7 that it has current active Federal contracts and grants with total values greater than \$10,000,000.

Of the unique vendors that were awarded contracts pursuant to FAR 52.209-9, and were required to enter information in FAPIIS, those contractors will have to update the FAPIIS-related

data in SAM every 6 months. Because the FAPIIS information in SAM is maintained on individual vendors, contractors awarded more than one contract will still only have to update the data two times per year regardless of the number of contracts awarded them. An average burden estimate of 1 hour is used to make the semi-annual updates.

The following analysis is provided in accordance with Fiscal Year (FY) 2015 Federal Procurement Data System (FPDS) data:

- FY 2015 data revealed that 225,411 contracts subject to FAPIIS were awarded to 13,693 unique vendors.
- The Government estimates that approximately one third (4,560) of the unique vendors submitting offers may answer the first question affirmatively (from the clause at FAR 52.209-7), and then will have to enter data into FAPIIS.
- Based on the analysis, it was determined that the 4,560 unique vendors will be used as the basis for the number of respondents required for this information collection.

**Annual Reporting Burden
FAR 52.209-9**

Estimated number of respondents:	4,560
Est. number of responses per respondent per year:	<u> 2 </u>
Total annual responses (rounded):	9,120
Estimated hours per response:	<u> 1 </u>
Total response burden hours for FAR 52.209-9:	9,120
Average wage + overhead:	<u> \$ 46* </u>
Estimated cost to public:	\$419,520

* DoD, GSA, and NASA used a rate equivalent to a GS-12, Step 5 or \$33.72/hour (from the OPM 2016 GS Salary Table), added overhead at 36.45 percent (the OMB-mandated burden rate for A-76 public-private competitions), and rounded it to the nearest whole dollar, or \$46/hour. The estimated cost per response is approximately \$46.

* Based on a comment, an adjustment has been made to change the estimated hours per response from .5 to 1 hour. This change doubles the time to add more time for making the semi-annual updates.

b.iii. Annual recordkeeping burden associated with 52.209-7 and 52.209-9.

The number of recordkeepers is based on the number of respondents submitting data into FAPIIS, whether or not they

receive an award. For recordkeeping, the Government has used an average burden estimate of 100 hours annually per respondent to include the time necessary per respondent to maintain the company's information internally. Most large businesses and some small businesses have established systems to track compliance.

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**Annual Recordkeeping Burden
52.209-7 and 52.209-9**

Number of recordkeepers:	5,080
Estimated preparation time per response (hours):	<u>x 100</u>
Total recordkeeping burden hours:	508,000
Average wage (\$30.81 + 36%):	<u>x 46*</u>
Total:	\$23,368,000

* DoD, GSA, and NASA used a rate equivalent to a GS-12, Step 5 or \$33.72/hour (from the OPM 2016 GS Salary Table), added overhead at 36.45 percent (the OMB-mandated burden rate for A-76 public-private competitions), and rounded it to the nearest whole dollar, or \$46/hour.

c.i. 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—Representation.

Based on the number of active registrants for contracts in the ORCA module of SAM, DoD, GSA, and NASA estimate the following burden hours associated with 52.209-2(d)(2):

**Annual Reporting Burden
(52.209-2)**

Estimated number of respondents:	391,000
Estimated number of responses per respondent:	<u>x 1.1*</u>
Total annual responses:	430,100
Estimated hours per response:	<u>x 0.01</u>
Total response burden hours:	4,301
Average wage + overhead:	<u>x \$46</u>
Estimated cost to public:	\$197,846

* DoD, GSA, and NASA used a rate equivalent to a GS-12, Step 5 or \$33.72/hour (from the OPM 2016 GS Salary Table), added overhead at 36.45 percent (the OMB-mandated burden rate for A-76 public-private competitions), and rounded it to the nearest whole dollar, or \$46/hour. The estimated cost per response is approximately \$0.46.

* The estimated number of responses per respondent increased from 1 to 1.1.

c.ii. 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations.

Based on the estimates of acquisition professionals., DoD, GSA, and NASA estimate the following burden hours associated with 52.209-10(c):

**Annual Reporting Burden
(52.209-10)**

Number of respondents:	2
Responses per respondent:	<u>x 1</u>
Total Annual Responses:	2
Estimated hours per response:	<u>x 8</u>
Total response burden hours:	16
Average wages + overhead:	<u>\$67*</u>
Estimated cost to public:	\$1,072

* DoD, GSA, and NASA used a rate equivalent to a GS-15, Step 5 or \$55.74/hour (from the OPM 2016 GS Salary Table), added overhead at 36.45 percent (the OMB-mandated burden rate for A-76 public-private competitions), and rounded it to the nearest whole dollar, or \$67/hour. The estimated cost per response is \$15.97. The estimated cost per response is \$34.81.

14. Estimated cost to the Government. DoD, GSA, and NASA estimate the annual cost to the Government to review and analyze the responses to this information collection requirement to be as follows:

Total annual responses:	1,239,602
Review time per response (hours):	<u>x 0.03</u>
Total burden hours:	41,848
Average wage (\$30.81 + 36%):	x <u>\$54.60</u>
Total Government Cost:	\$2,284,696

(see table below for details)

9000-0094		Responses			Hours/ response	Hours	Cost per hour	Total \$	
52.209-5(a) and 52.212-3(h) - (i) Cert		430,100			0.02	8,602	\$46.00	\$395,692	

52.209-5(b) and (c) and 52.212-3(h) - Additional info upon request or change prior to award *		3,910				4	15,640	\$67.00	\$1,047,880
52.209-6(c) - notification by subs (not COTS)*		285,000							
52.209-6(d) Prime notification		90				16	1,440	\$67.00	\$96,480
52.209-7(b) - initial		76,200				0.02	1,524	\$46.00	\$70,104
52.209-7(c) - additional *		5,080				1	5,080	\$46.00	\$233,680
52.209-9 - Updates *		9,120				0.1	912	\$46.00	41,952
52.209-d(2) and 52.212-3(n) - Rep		391,000				0.02	16,000	\$46.00	\$736,000
52.209-10(c) - Notification **		2				24	48	\$67.00	\$3,216
Subtotal						0.04	16,048	\$46.06	\$739,216
TOTAL Reporting		1,239,602				.03	41,848	\$54.60	\$2,284,696

* These responses are not provided to the Government

15. Explain reasons for program changes or adjustments reported in Item 13 or 14 of the 83-I (13. Annual reporting and recordkeeping hour burden, and 14. Annualized Cost to respondents).

This clearance combines OMB clearances 9000-0094, 9000-0174, and 9000-0190. There is a net increase of 55,560 burden hours under this new information collection requirement as follows:

	<u>Previous</u>	<u>Current</u>	<u>Delta</u>
9000-0094	324,000	389,550	+65,550
9000-0174	18,050	17,260	-790
9000-0190	70,400	78,200	+7,800
Total	937,450	993,010	+55,560

These changes are all due to adjustment of estimates, not program change. In some cases there were less respondents, due to current FY 2015 FPDS data. However, there were more respondents, when based on active registrants in SAM. The respondents and burden hours for 52.209-5 and 52.209-6 were broken out and separately estimated for better accuracy. Some of the response times were adjusted based upon analysis of the complexity required for the response.

16. Outline plans for published results of information collections. Results of this information collection will not be published.

17. Approval not to display expiration date. Not applicable.

18. Explanation of exception to certification statement. Not applicable.

B. Collections of Information Employing Statistical Methods. Statistical methods are not used in this information collection.